

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) 37998-237472
	Application Number 10/596,746-Conf. #1040	Filed April 16, 2007
	First Named Inventor Gudermann et al.	
	Art Unit 1772	Examiner D. M. White

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant /inventor.



Signature

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b)  
is enclosed. (Form PTO/SB/96)

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Registration number if acting under 37 CFR 1.34. \_\_\_\_\_

April 8, 2011

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below\*.

\*Total of 1 forms are submitted.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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In re Patent Application of:  
Gudermann et al.

Art Unit: 1772

Application No: 10/596,746

Examiner: D. M. White

Confirmation No: 1040

Filed: April 16, 2007

Atty. Docket No: 37998-237472

Customer No:

For: **METHOD AND DEVICE FOR  
RECORDING MICROSCOPIC IMAGES**

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**26694**

PATENT & TRADEMARK OFFICE

**COMMENTS ACCOMPANYING REQUEST FOR PRE-APPEAL REVIEW**

MS AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In accordance with the Request for Pre-Appeal Review filed herewith, please consider the following.

Claims 1, 3, 5-18, and 20-17 were rejected under 35 USC § 102(b) as being anticipated by Bukshpan et al. (US 2002/0198928). As claim 2 was not subject to this rejection, it is believed that the incorporation of the subject matter of claim 2 into claims 1 and 20 obviates this rejection. Reconsideration and withdrawal are respectfully requested.

Claims 2 and 4 continue to be rejected under 35 USC § 103(a) as being unpatentable over Bukshpan et al. in view of Ravkin et al. (US 2003/0134330). To the extent that this rejection may be considered applicable to the amended claims, it is traversed for the following reasons.

The present claims differ from the teaching of Bukshpan et al. as Bukshpan contains no disclosure that the camera is moving along the measuring cell and the measuring cell is imaged onto said optical sensor by the movement of optical elements. This deficiency cannot be remedied by combining Bukshpan's teaching with Ravkin et al., since Ravkin does not explicitly disclose that a movement of a detector during the measurement occurs. Ravkin discloses essentially a system in which a detector is stepwise moving from one reaction well to the next reaction well of a microtiter plate without intermediate measurement. This, however, does not at all disclose any hint that a measurement during the movement shall happen. To the contrary, the skilled person readily realizes that the actual measurement of the reaction well can only be performed when the optical sensor (camera) is placed for example over the reaction well. The skilled person would not assume that the measurement will be continued during the shift of the sensor from one well to another.

Thus, even if Ravkin et al. and Bukshpan et al. are combined, it would not result in the present invention, as a person skilled in the art would not conclude that that during movement the flow cuvette should be measured, as taught by the present invention.

All rejections having been addressed, it is respectfully submitted that this application is in condition for allowance, and Notice to that effect is respectfully requested.

Dated: April 8, 2011

Respectfully submitted,

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